

House File 751 - Introduced

HOUSE FILE 751

BY SHIPLEY

A BILL FOR

1 An Act relating to marijuana, by eliminating penalties for
2 the possession, manufacture, and delivery of marijuana and
3 providing for the expungement of convictions related to
4 marijuana.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29B.107A, subsection 2, paragraph a,
2 Code 2021, is amended to read as follows:

3 a. Opium, heroin, cocaine, amphetamine, lysergic acid
4 diethylamide, methamphetamine, phencyclidine, and barbituric
5 acid, ~~and marijuana~~ and any compound or derivative of any such
6 substance.

7 Sec. 2. Section 124.101, subsection 20, Code 2021, is
8 amended by striking the subsection.

9 Sec. 3. Section 124.201A, subsection 4, Code 2021, is
10 amended to read as follows:

11 4. Any cannabis-derived investigational product or
12 cannabis-derived product approved as a prescription drug
13 medication by the United States food and drug administration
14 shall not be considered ~~marijuana or~~ cannabimimetic agents,
15 ~~both~~ as defined in [section 124.204](#), tetrahydrocannabinols
16 as used in [section 124.204, subsection 4](#), paragraph "u",
17 unnumbered paragraph 1, or hemp as defined in [section 204.2](#).

18 Sec. 4. Section 124.204, subsection 4, paragraph m, Code
19 2021, is amended by striking the paragraph.

20 Sec. 5. Section 124.401, subsection 1, paragraph a,
21 subparagraph (6), Code 2021, is amended by striking the
22 subparagraph.

23 Sec. 6. Section 124.401, subsection 1, paragraph b,
24 subparagraph (6), Code 2021, is amended by striking the
25 subparagraph.

26 Sec. 7. Section 124.401, subsection 1, paragraph c,
27 subparagraph (5), Code 2021, is amended by striking the
28 subparagraph.

29 Sec. 8. Section 124.401, subsection 1, paragraph d, Code
30 2021, is amended to read as follows:

31 d. Violation of [this subsection](#), with respect to any other
32 controlled substances, counterfeit substances, simulated
33 controlled substances, or imitation controlled substances
34 classified in schedule IV or V is an aggravated misdemeanor.
35 However, violation of [this subsection](#) involving ~~fifty kilograms~~

1 ~~or less of marijuana or involving~~ flunitrazepam is a class "D"
2 felony.

3 Sec. 9. Section 124.401, subsection 5, unnumbered paragraph
4 2, Code 2021, is amended by striking the unnumbered paragraph.

5 Sec. 10. Section 124.401G, unnumbered paragraph 1, Code
6 2021, is amended to read as follows:

7 Notwithstanding any provision of [this chapter](#) to the
8 contrary, a person shall not be guilty of an offense under
9 this chapter, including under [section 124.401](#) ~~or 124.410~~,
10 for producing, possessing, using, harvesting, handling,
11 manufacturing, marketing, transporting, delivering, or
12 distributing the plant cannabis, if all of the following apply:

13 Sec. 11. Section 124.407, subsection 2, Code 2021, is
14 amended to read as follows:

15 2. ~~a.~~ Any person who violates [this section](#) ~~and where the~~
16 ~~controlled substance is any one other than marijuana~~ is guilty
17 of a class "D" felony.

18 ~~b.~~ Any person who violates [this section](#), ~~and where the~~
19 ~~controlled substance is marijuana only, is guilty of a serious~~
20 ~~misdemeanor.~~

21 Sec. 12. Section 124.411, subsection 2, Code 2021, is
22 amended to read as follows:

23 2. For purposes of [this section](#), an offense is considered
24 a second or subsequent offense, if, prior to the person's
25 having been convicted of the offense, the offender has ever
26 been convicted under [this chapter](#) or under any state or federal
27 statute relating to narcotic drugs or cocaine, ~~marijuana~~,
28 depressant, stimulant, or hallucinogenic drugs.

29 Sec. 13. Section 124.413, subsection 2, Code 2021, is
30 amended by striking the subsection.

31 Sec. 14. Section 124.506A, subsection 1, paragraph a, Code
32 2021, is amended to read as follows:

33 a. Notwithstanding the provisions of [section 124.506](#),
34 ~~if more than ten pounds of marijuana or more than one pound~~
35 ~~of any other~~ a controlled substance is seized as a result

1 of a violation of [this chapter](#), the law enforcement agency
 2 responsible for retaining the seized controlled substance may
 3 destroy the seized controlled substance if the law enforcement
 4 agency retains ~~at least ten pounds of the marijuana seized or~~
 5 at least one pound of ~~any other~~ a controlled substance seized
 6 for evidence purposes.

7 Sec. 15. Section 124E.12, subsections 1, 2, 3, and 4, Code
 8 2021, are amended by striking the subsections.

9 Sec. 16. Section 453B.1, subsection 3, paragraph a,
 10 subparagraph (1), Code 2021, is amended to read as follows:

11 (1) Seven or more grams of a taxable substance ~~other than~~
 12 ~~marijuana, but including a taxable substance that is a mixture~~
 13 ~~of marijuana and other taxable substances.~~

14 Sec. 17. Section 453B.1, subsection 3, paragraph a,
 15 subparagraphs (2) and (3), Code 2021, are amended by striking
 16 the subparagraphs.

17 Sec. 18. Section 453B.1, subsections 7, 8, and 11, Code
 18 2021, are amended by striking the subsections.

19 Sec. 19. Section 453B.1, subsection 10, Code 2021, is
 20 amended to read as follows:

21 10. "*Taxable substance*" means a controlled substance, a
 22 counterfeit substance, or a simulated controlled substance, ~~or~~
 23 ~~marijuana~~, or a mixture of materials that contains a controlled
 24 substance, counterfeit substance, or simulated controlled
 25 substance, ~~or marijuana.~~

26 Sec. 20. Section 453B.4, Code 2021, is amended to read as
 27 follows:

28 **453B.4 Measurements.**

29 For purposes of measurements under [this chapter](#), the
 30 weight of a taxable substance shall be measured by its weight
 31 in metric grams in the dealer's possession. ~~If a taxable~~
 32 ~~substance consists of a mixture containing both marijuana and~~
 33 ~~another substance or combination of substances listed in the~~
 34 ~~definition of taxable substance in [section 453B.1](#), the taxable~~
 35 ~~substance shall be taxed under [section 453B.7, subsection 2.](#)~~

1 Sec. 21. Section 453B.7, Code 2021, is amended to read as
2 follows:

3 **453B.7 Tax imposed — rate of tax.**

4 An excise tax is imposed on dealers at the following rates:

5 ~~1. On each gram of processed marijuana, or each portion of a~~
6 ~~gram, five dollars.~~

7 ~~2. 1. On each gram or portion of a gram of any a taxable~~
8 ~~substance, other than marijuana, sold by weight, two hundred~~
9 ~~fifty dollars.~~

10 ~~3. On each unprocessed marijuana plant, seven hundred fifty~~
11 ~~dollars.~~

12 ~~4. 2. On each ten dosage units of any a taxable substance,~~
13 ~~other than unprocessed marijuana plants, that is not sold by~~
14 ~~weight, or portion thereof, four hundred dollars.~~

15 Sec. 22. Section 901C.3, subsection 1, unnumbered paragraph
16 1, Code 2021, is amended to read as follows:

17 Upon application of a defendant convicted of a misdemeanor
18 offense in the county where the conviction occurred, other
19 than a misdemeanor related to the possession or transfer of
20 marijuana under chapter 124, the court shall enter an order
21 expunging the record of such a criminal case, as a matter of
22 law, if the defendant has proven all of the following:

23 Sec. 23. NEW SECTION. **901C.4 Offenses related to marijuana**
24 **— expungement.**

25 1. Upon application of a defendant convicted of an offense
26 under chapter 124 in the county where the conviction occurred,
27 related to the possession or transfer of marijuana, the court
28 shall enter an order expunging the record of such a criminal
29 case.

30 2. The expunged record under this section is a confidential
31 record exempt from public access under section 22.7 but shall
32 be made available by the clerk of the district court upon court
33 order.

34 3. Notwithstanding section 692.2, after receipt of
35 notice from the clerk of the district court that a record of

1 conviction has been expunged under subsection 1, the record
2 of conviction shall be removed from the criminal history data
3 files maintained by the department of public safety if such a
4 record was maintained in the criminal history data files.

5 4. The supreme court may prescribe rules governing the
6 procedures applicable to the expungement of a criminal case
7 under this section.

8 5. This section applies to a conviction that occurred prior
9 to, on, or after the effective date of this Act.

10 Sec. 24. REPEAL. Section 124.410, Code 2021, is repealed.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill eliminates criminal penalties relating to
15 marijuana by eliminating certain criminal provisions in Code
16 chapter 124 (uniform controlled substances Act). The bill
17 eliminates penalties relating to the possession, manufacture,
18 and delivery of marijuana, the hosting of events where
19 marijuana is present, the marijuana accommodation offense, and
20 second or subsequent offenses involving marijuana, including
21 in Code chapter 29B (military justice). The bill also removes
22 marijuana from schedule I of the uniform controlled substances
23 Act. The bill makes conforming changes in Code chapter 124E
24 (medical cannabidiol Act). The bill also removes marijuana
25 from Code chapter 453B (excise tax on unlawful dealing in
26 certain substances).

27 EXPUNGEMENT. The bill provides that upon application by
28 a defendant convicted of an offense under Code chapter 124
29 (controlled substances) related to the possession or transfer
30 of marijuana, the court shall enter an order expunging the
31 record of such a criminal case. Under current law, misdemeanor
32 marijuana offenses may be expunged pursuant to Code section
33 901C.3 (misdemeanor expungement).